

**REMARKS/ARGUMENT**

In what appears to be an unusual rejection, the Examiner, at page 19 of the Office Action has indicated that the four declarations filed under the provisions of 37 CFR 1.132 with the last response were sufficient to overcome the rejection of all of the claims based upon references to Pool, Feleppa, Thornton and Reilley, et al. The Office Action then commences with essentially the same language of rejection with respect to those references with the addition of three additional references. Accordingly, those three references must somehow suggest their incorporation with the early ones and must suggest the entire combination set forth in the claims in controversy. Out of an abundance of caution, the applicants will address the rejections which were repeated from the first Office Action once more. Additionally, supplementary declarations drawn under the provisions of 37 CFR 1.132 are submitted reasserting earlier statements by the deponents and further addressing the three additional references.

It is noted that claims 1-17 have been rejected under § 103 of the Patent Statute. In applying this rejection, the Examiner has indicated that the claims are unpatentable over Pool, U. S. Patent No. 2,638,636 (Pool) in view of Feleppa, U. S. Patent No. 5,700,102 (Feleppa) and Thornton, U. S. Patent No. 3,673,720 (Thornton) and Reilley, et al., U. S. Patent No. 5,120,941 (Reilley et al). Those references were utilized in the previous Office Action. The Examiner further has combined Glass, U. S. Patent No. 6,148,551 (Glass) and Flea Market Slideshow (Flea Market) and Howes, Jr., U. S. Patent No. 3,982,758 (Howes, Jr.).

At the outset, applicants submit that the Flea Market and Duarte references are not printed publications within the meaning of 35 U.S.C. 102(a) and (b). Under § 2128 of the MPEP prior art disclosures on the internet are considered to be publicly available as of the date the item was publicly posted. A copyright notice is not a public posting date. Websites are generally continually updated while the copyright notice does not change. Also, see generally: Wright, "A Contemporary Patent Act: Finding a Useful Definition of 'Printed Publication' in the Age of the Internet and On-line Research", 85 JPOS No 9, pp 732-750, Sept., 2003.

In applying this rejection, the Examiner has stated that Pool shows merchandise having given trade dress at an outdoor paved surface being presented, a retailing geometric boundary (34) at the paved surface, merchandise information signage displaced to advertise the merchandise (col 3, ll 65-72), a cash/wrap region (12-20) adjacent the shopper aisle, the signage being at the shopper's line of sight (col 3, ll 62-63), merchandise being located in correspondence with the merchandise information signage (col 3, ll 67-70), bay/niche containing merchandise.

Pool describes a drive-through grocery with a roadway extending within a fenced boundary. From the opening in the fence the driver encounters a wall (34) which the Examiner

improperly construes as a geometric boundary as taught by the instant invention. That geometric boundary is defined such that merchants can allocate such a boundary within a paved parking lot to carry out seasonal marketing of goods which are suited for outdoor marketing purposes such as garden and lawn supplies. There is no merchandise information signage described in Pool. There is no signage described in Pool. What the Examiner is pointing to in Pool are a series of niches which are in the wall which are deep, the faces of which are enclosed in glass to define a showcase. Grocery products are displayed in these niche showcases. While the terms sign or signage do not as much as appear in Pool, the term showcase does. The term "showcase" is defined as a case with a glass top and sides used to display articles and protect them from dust and injury, as in a store or exhibition. (Webster's New Twentieth Century Dictionary, Second Edition).

Pool used the term "showcase" accurately to describe the wall niches. With the Pool approach to merchandising groceries, customers remain in their cars and proceed to order-cashier booths somewhat resembling highway toll booths which, of course, they are. Those booths are not cash/wrap stations. There is no "wrap" function. See the attached supplemental declarations of Kern and Baughman. The customer then picks up the merchandise at an enclosed building 22. Note that there is a parking lot referred to as a "parking yard 56". Nothing occurs in that parking lot which is the facility utilized by the instant invention. The shopper line of sight region described in claim 1 is carefully defined with respect to the top of the poles and the overhead signage sight height, the signage extending downwardly from the signage support which is located at the top of those poles. The line of sight described in Pool is one from an automobile which in 1951 would have been about 4 1/2 feet and presumably substantially horizontal. See supplemental declaration of Kern. Of more importance, there are no signs described in Pool. The Examiner indicates that the merchandise is located in correspondence with the merchandise information signage. That is incorrect. There is no signage described in Pool and the merchandise, while having an exemplary display in showcases, is picked up from building 22. In claim 1, anchors and poles combine to define bay distances and bays and the claim also positions merchandise within the bay below the bay access elevation, i.e., the bottom of the signs, and locates the merchandise in correspondence with the merchandise information signage. There are no signs in Pool and the merchandise is not described as being positioned below such carefully claimed sign and pole structuring as set forth in claim 1.

Pool clearly teaches against the concept of the present invention which is to get away from the undesirable atmosphere of a retail parking lot. Pool keeps the automobile motors running with the exception of having a parking lot with nothing added to it for merchandising purposes. The Examiner is invited again to return to page 3 of the instant application describing that the

parking lot itself traditionally has been considered a detriment to the fostering of sales. Such parking lots typically involve exhaust fumes, automobiles being poorly driven, debris strewn about and they typically exude the environment of a vast stretch of asphalt. That's Pool. See the supplemental declarations of Kern, Baughman, Dascenzo and Wood.

The Examiner then details what Pool does not show, essentially paraphrasing claim 1.

Next the Examiner repeats that Feleppa (Fig. 88) shows a marketplace having a plurality of poles forming a retail area, the poles extending from the ground to a top. Feleppa shows a rigid tent structure and, in fact, doesn't show ground. Feleppa describes (Fig. 88) as follows: "FIGS. 66-93 show, as perspective stick figures, various frame configurations formed by rigid elongate elements joined together by connectors formed by assemblies of the modules of the invention." Fig. 88 is a tent, (at least the patent describes them as shelters) with the top carrying sign in the middle. The Examiner is utilizing total speculation in calling Fig. 88 a marketplace. The sign can be used for identifying other produce selling locations, for example, the tent could be used as a storehouse. The Examiner is not entitled to guess the meaning of the tent in applying a rejection. The Examiner is correct in indicating that Feleppa shows poles. The Examiner has not identified and could not identify how one would be constrained to put those poles around the fence or wall of Pool and end up with Fig. 1 of the instant application. Where is the nexus that shows that the tent would be erected in the parking lot of Pool? There is none. As the applicants describe in the background of the instant application, the use of tents to sell outdoor products in parking lots heretofore has been deemed not to be cost effective and little if no signage is utilized. Of course, if produce were sold in Fig. 88 of Feleppa the customer couldn't see the sign because of the shelter roof. See the supplementary declarations of Kern and Baughman.

Next, the Examiner repeats the rejection based upon Reilley, et al., stating that Reilley, et al., (Figs. 1-2) shows a retail area having bays with merchandise signage (50) hanging from the signage support supporting merchandise information (54) positioning the merchandise within the bay/niche below the bay access elevation. The Examiner is correct in that Reilley, et al., shows a retail area. That retail area is a conventional shelf supporting heavy bag merchandise. Reilley describes "price channels" not signage support as described by the Examiner. On those channels are pads carrying product identification marketing information and in accordance with the Reilley, et al., invention, UPC symbols. Instead of having to carry the heavy bags the customer simply tears off a slip and takes it presumably to the cashier. The Examiner is incorrect in describing signage hanging from the signage support. The Examiner is incorrect in describing that the merchandise is positioned within the bay/niche below the bay access elevation. Bay

access elevation is accurately defined in the instant application and in claim 1 in conjunction with the step describing how the signage extends downwardly (see also p. 21, l 6).

Next, the Examiner restates that Thornton (Fig. 1) shows a plurality of poles extending into sleeves (57) in the ground to support the poles, the poles being connected at the tops (34) with signage. Thornton shows two poles, not a plurality of poles which stick in the ground and support a sign which slides up and down on the poles so that the lettering on the sign can be changed. Claim 1 calls for interconnecting the pole tops together with a horizontally disposed signage support to define a 3-dimensional retailing region with a select number of merchandising bays extending between adjacent poles. Thornton just shows a sign. Applicants query how Thornton can be construed to turn Pool into the facility shown in Fig. 1 of the instant application. There is no relationship and one would not be drawn to combine Pool with any of the references to achieve the facility, for example, shown in Fig. 1. See the supplemental declarations of Dascenzo and Wood.

Next, the Examiner describes that Glass discloses banner being made of Nylon. Glass shows a large inflated balloon, a portion of the surface of which is configured to removably retain very large message banners, i.e., six feet wide and approximately four feet high. These Nylon message banners are attached with Velcro and include plastic letters/numbers. Thus, the large banner is merely a sign and not a Nylon flag assembly. As set forth in the supplemental declaration of Dascenzo, Nylon material is used to achieve a visual stimulation to the signage below the flags. Pennants formed of other materials were not effective as a sight stimulator as was Nylon. The stationary Nylon sign with plastic letters does not provide that function whatsoever.

Next the Examiner has provided a prolix sentence indicating that it would have been obvious to modify Pool. Pool isn't "modified". Pool must be shown to be logically combined with the secondary references. What the Examiner has done has been to import the language from the claims of the instant application into the references while avoiding the different terminology with different meaning employed in the references.

"[I]t is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious... This court has previously stated that '[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.'"  
*In re Fritch* 972 F2d 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992).

It is impermissible to use the inventor's disclosure as a "roadmap" for selecting and combining prior art disclosures. See *Interconnect Planning Corp. v. Feil* 774 F2d 1132, 227 USPQ 543 (Fed. Cir. 1985).

Using terms imported from the specification and claims of the instant application and using the applicants own disclosure as a roadmap, the Examiner then states that it would have been obvious to "modify" Pool to show "...a plurality of anchors about the boundary extending below the surface and mutually spaced apart to establish bay distances, each said anchor having a vertically disposed sleeve having a support distance located below the paved surface,...". The only bay distance shown in the art cited is a shelf width. The only anchors are two anchors supporting a slidable sign and anchors netting around half a tennis court. There is no bay distance associated with the slidable sign. The Examiners' analysis is improper and incorrect.

Next, the Examiner repeats that it would have been obvious to "modify" Pool to show "...a plurality of first poles having ends inserted into the sleeve,...". The only poles shown in the cited art are poles presumably holding up a tent, two poles holding up a slidable sign and poles holding up a tennis court peripheral barrier. The Examiner ignores the provisions of the third substantive paragraph of claim 1 wherein the first poles have an insertion end configured for slidable insertion to the extent of said support distance within a said sleeve and extensible, when inserted within said sleeve, and overhead signage sight height from said surface to a top. One queries where one would put the pole and the anchors in Pool? There is no relationship between the references which would make their combination logical to suggest Fig. 1 of the instant application.

Next, the Examiner states that it would have been obvious to "modify" Pool to show "...overhead signage extending downwardly from the signage support within a shopper line of sight region to a lower border adjacent a bay access elevation above the surface...". None of references show overhead signage extending downwardly from the claim defined signage support and within the claim defined shopper line of sight region. None of the references show a lower border adjacent a bay access elevation above the surface. It simply doesn't exist in any of the references.

Next, the Examiner restates that it would have been obvious to "modify" Pool to show "...the poles within the sleeves defining a retail floor,...". The fourth substantive paragraph of claim 1 describes positioning the first poles within said anchor sleeves to define a retail floor pattern having an entrance region and a shopper aisle extending therefrom to a shopper exit region. None of the references describe poles within anchors defining a retail floor pattern with the noted entrance, aisle and exit. In fact, the entrance of Pool is a distance between wall 34 and a curb and its exit is the distance between a fence and curb 66. There are no poles and there is no reason to have them in Pool.

Next, the Examiner restates that it would have been obvious to "modify" Pool to show "...interconnecting the pole tops with horizontally disposed signage support to define a three

dimensional retailing region with a select number of merchandising bays extending between adjacent said poles from at least a portion of said geometric boundary to the shopper aisle,...". None of the references show an interconnection of pole tops with a horizontally disposed signage support to define a 3-dimensional retailing region with a select number of merchandising bays extending between adjacent said poles from at least a portion of said geometric boundary to said shopper aisle. The only pole interconnection shown in any of the references is a connection of two poles to support a slidable sign and poles to support two sides of a tennis court boundary fence. Thornton does not show nor possibly suggest the interconnection defining a 3-dimensional retailing region with a select number of merchandising bays extending between adjacent said poles from at least a portion of the geometric boundary to the shopper aisle. Claim 1 requires that the poles are positioned within the anchor sleeves to define the retail pattern with the aisle. The Examiner is simply following the noted roadmap provided by the applicants' own disclosure. See the supplementary declaration of Dascenzo.

Next the Examiner restates that it would have been obvious to "modify" Pool to show "...suspending merchandising signage from the signage support at the said boundary along the bays,...". The references show no signage supported at a boundary along bays. That's because there aren't any bays in any of the references which are associated with a paved surface. Next, the Examiner restates that it would have been obvious to "modify" Pool to show "...positioning the merchandise within the bay/niche below the bay access elevation because having a plurality of poles extending into anchors/sleeves in the ground to define a retail area would provide for easy and quick assembly of the retail boundary as taught by Thornton and Feleppa,...". Initially it should be pointed out that none of the references, taken singly or in combination show a bay access elevation. Also it appears that the Examiner is applying this rejection based on some apparent personal expertise and not on any documentation. Accordingly, the applicants again request the Examiner to provide evidentiary documentation fully supporting his statement or provide a personal affidavit fully supporting his statement under the provisions of 37 CFR § 1.104(d) (2).

Next, the Examiner states that it would have been obvious to "modify" Pool to show "...overhead signage extending downwardly from the from the signage support within a shopper line of sight region to a lower border adjacent a bay access elevation above the surface would allow for the easy advertisement of the available products as taught by Thornton and Glass,...". Thornton only teaches a slidable sign and two poles. Glass shows an inflatable balloon with a large Nylon banner fixed to it with Velcro. None of the references show a signage support with overhead signage within a claim defined shopper line of sight. None of the references show a border adjacent a bay access elevation above the surface. Apparently, the

Examiner is relying on his own expertise in asserting this rejection. Accordingly, the applicants again request that the Examiner supply evidentiary documentation in full support of his statement or a personal affidavit fully supporting his statement under the provisions of 37 CFR § 1.104(d) (2).

Next, the Examiner restates that it would have been obvious to "modify" Pool to show "...having a plurality of merchandising bays extending adjacent the poles and suspending merchandise information signage from the signage support at said boundary along the bays would enable the separate advertisement of the available merchandise as taught by Thornton and "Flea Market Slide Show",...". There are no merchandising bays shown in Thornton - just a sign slidably supported on two poles. The Examiner has only submitted one display from the Flea Market reference. Assuming (arguendo) that it is a valid reference, as annexed with the four supplemental declarations, the whole website is presented. That website shows an outdoor emporium on 120 acres with an installation map permanent buildings and a separate parking lot. Figures in the entire website show only permanent buildings and spaces. It shows a stage for outdoor entertainment in conjunction with food services. The only retail merchandising facility disclosed in the entire website is one within a permanent building. The applicants are entitled to look at the entire document not just one incorrectly implying a "canopy" to support the Examiner's unusual theory of obviousness. Flea Market, in fact, teaches against the precepts of the present invention. Its combination with the other references is not suggested whatsoever.

Next, the Examiner restates that it would have been obvious to "modify" Pool to show "...and positioning the merchandise within the bay/niche below the bay access elevation would enable easy showing and storing of the display merchandise." The references, whether taken singly or in combination, fail to show or suggest this step of positioning the merchandise within the bay below the bay access elevation and locating the merchandise in correspondence with the merchandise information signage. Apparently, the Examiner is relying on some personal expertise in asserting this rejection. Accordingly, the applicants request that the Examiner supply evidentiary documents fully supporting his statement or a personal affidavit drawn under the provisions of 37 CFR § 1.104(d) (2).

The Examiner has already indicated that the rejections based upon various combinations of Pool, Feleppa, Thornton, and Reilley, et al., have been overcome by the earlier submitted declarations. Glass adds a portable inflatable balloon to which a large sign is attached. Flea Market adds a permanent building enclosing a retail merchandising area. Its only other offering is a food service tent and an entertainment stage. The principal references already have been found to be overcome and the added references add nothing to the combination to suggest the claim components of the method and system of the invention.

In rejecting claims 2-3, the Examiner again states that Pool as "modified" shows all the claim limitations except for the flags being supported on the poles, the flag assemblies being provided as pennants formed with Nylon. With this rejection the Examiner combines Feleppa as showing flags being supported on poles and Glass as disclosing a banner made of Nylon. First of all, the banner of Glass is not a flag nor is it a pennant. It is a stationary sign fixed to a balloon with Velcro.

As stated at page 14 of the application the flag assemblies 93-98 are perception stimulators, in effect, leading the shoppers' sight lines to the information provided at the overhead signs as at 40-42, 52-54 and 62-64. See the supplemental declaration of Dascenzo. There are no poles nor are there any flags, nor are there any merchandise signs in Pool. Feleppa shows a tent, a sign over its top which cannot be seen from inside the tent and two pennants which are not positioned upon the signage supporting poles. Glass does not suggest the utilization of flags or pennants formed of Nylon as sight stimulators to lead the customer's sight to signage set below. Glass is a sign in and of itself and it has no movement. In fact, the Glass patent teaches techniques for maintaining the balloon in a physically steady state against swaying and the like. The references are improperly combined.

In applying the rejection, the Examiner again has stated that it would have been obvious to "modify" Pool's modified structure to show "...the flags being supported on poles because having flags on poles would attract people's attention to the installation and thus enhance sales of product as taught by Feleppa...". Again, the Examiner is relying on either common knowledge or his own personal knowledge in asserting this rejection. Applicants again call upon the Examiner to produce evidentiary documentation showing that flags on poles attract peoples attention to signs and enhance sales. In the absence of such documentation the applicants call upon the Examiner to supply a personal affidavit supporting his position under the provisions of 37 CFR § 1.104(d) (2). Claims 2 and 3 require that the flag support structures and flags be at the top of the poles. The tops of the poles are carefully defined in claim 1 and, as noted above, are present to attract the customers' eye to the signage and away from the undesirable atmosphere of a parking lot. Pool, at best, suggests an even worse atmosphere. As part of this rejection the Examiner further states: "...and having the flags as pennants formed with nylon would have been obvious as pennants is a well-known flag shape and nylon is a well known flag material as shown by Glass." The term flag does not appear in Glass. Glass shows a large Nylon sign fixed to the side of a large inflated balloon. There is nothing in Glass to suggest that Nylon is a well known flag material. Apparently, the Examiner is relying on some personal expertise in asserting this rejection. Accordingly, the applicants request that the Examiner supply evidentiary documents fully supporting his statement or a personal affidavit drawn under the provision of 37



CFR § 1.104(d) (2). As shown in the Dascenzo's supplemental declaration, Nylon, indeed, is unique for the purpose at hand and its selection follows research in this field.

Next, the Examiner states that "Pool as modified shows all the claim limitations. The claimed method steps of presenting merchandise would have been obvious method steps of presenting Pool's merchandise." This statement is entirely incorrect for reasons as given above and is set forth in the annexed supplemental declarations. Next, the Examiner looks to claim 4 and states that Pool as modified shows all the claim limitation except for the shelter being canopy. That statement is incorrect for reasons given above. One queries where one would put a canopy on Pool. In the parking lot? There is no retail merchandising going on in that parking lot. Alternately, a canopy could be installed in the roadway. That does not seem logical. Next, the Examiner states: "'Flea Market' slide show" shows a canopy covering a marketplace to provide shelter. As noted above, when looking at the entire website that is not what the Flea Market describes and illustrates. The only illustration showing the use of a marketplace is one involving a permanent building. There is no showing in any of the figures to indicate that any of the overhead covers are not permanent. What the entire website shows is that the Flea Market is in San Jose, California where any overhead covers are more than likely of a permanent nature. In applying this rejection, the Examiner has indicated that it would have been obvious to modify Pool's structure to show the shelter being a canopy because a canopy is well known in the art for covering an outdoor cashier area as taught by Flea Market Slide Show. The Flea Market reference does not show a canopy over the cashier area. In fact, the only merchandising region described in Flea Market is within a clearly permanent building installation. See all the supplemental declarations.

Next, in rejecting claims 5-6, the Examiner has stated: "Pool as modified shows all the claim limitations except for the step of suspending the merchandise information signage establishing the bay access elevation as about 8 feet, the sight height having a range of between 10 feet to 12 feet." Flea Market Slide Show shows a signage "Cigars being about 10-12 to advertise a product below." The Examiner's statement is without merit. The singular display elected by the Examiner out of the entire website actually shows a permanent building with patrons drinking some form of beverage. There is a sign carrying the word "Cigars" but it is inside a permanent building. Claim 5 requires that the merchandise information signage establishes a bay access elevation of about eight feet. There is no bay access shown in the singular figure elected by the Examiner. The only merchandising that takes place in the Flea Market reference is in a permanent building at sheet 6x of 10. In that permanent building the number of signs appear quite sparse. The Flea Market reference shows no applicability to the method of presenting merchandising now claimed. See the supplemental declarations of

Baughman and Kern. Earlier in rejecting claims 5-6 the Examiner has stated: "it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Pools' modified structure to show the step of suspending the merchandise information signage establishing the bay access elevation as about 8 feet, the sight height having a range of between 10 feet to 12 feet because having the bay access elevation about 8 feet provide for easy and unrestricted access area below the bay for merchandise, and having a sight height having a range of between 10 feet to 12 feet would enable a person to view the signage without having to look too far up and thus increases a person's willingness to read the signage for information as taught by "Flea Market Slide Show". Again, the Examiner is relying upon his personal knowledge to assert a claim rejection. The Flea Market reference does not show nor does it suggest in any way a bay access elevation. The applicants call upon the Examiner to supply documentary evidence supporting his position or to supply the applicants with an affidavit describing how he has personal knowledge that this is obviousness under 37 CFR § 1.104(d) (2).

In rejecting claim 7, the Examiner again has stated that it would have been obvious "...to modify Pool's modified structure to show the spacing of the anchors about 3 feet to 20 feet because it would allow for sufficient space to position outdoor merchandise." Again, the Examiner is rejecting a claim based upon apparent personal knowledge. Applicants call upon the Examiner to provide documentary evidence supporting his position or to supply the applicants with a personal affidavit supporting this statement in accordance with 37 CFR § 1.104(d) (2).

In rejecting claim 8, the Examiner has cited Howes, Jr. as showing a plurality of covers (14). While Howes, Jr. may show covers it does so in connection with a tennis court. The reference does not combine with the others to show all of the limitations of parent claim 1 for reasons given above.

In rejecting claim 9, the Examiner has stated that it would have been obvious "...to modify Pools' modified structure to show the shopper aisle, the entrance region, and the exit region having widths of about 10 feet because it would ensure the easy passage of cars in the store." Again, the Examiner is relying on apparent personal knowledge to assert a rejection. Accordingly, the applicants call upon the Examiner to supply documentary evidence supporting this position or a personal affidavit supporting such position under the provisions of 37 CFR § 1.104(d) (2). As noted in the attached supplemental declaration of Kern, a value of 10 feet was a result of careful study and testing.

In rejecting claim 10, the Examiner again has stated that it would have been obvious "...to modify Pools' modified structure to show a tension cable assembly as said horizontally disposed signage support because a tension cable assembly would provide for easy supporting and tensioning of the support for supporting the signage." Again, the Examiner appears to be relying

on personal information in asserting a rejection, a practice criticized in the MPEP (§ 2144.03). Accordingly, applicants call upon the Examiner to provide documentary evidence supporting his position or a personal affidavit establishing his position under the provisions of 37 CFR § 1.104(d) (2).

In rejecting claim 11, the Examiner has combined Pool "as modified" with the Duarte web page on page 2 and states that Duarte discloses banner being supported on cable snaps on both the top and bottom edges of the banner. Assuming (arguendo) that it is a valid reference, Duarte discloses a local governmental regulation requiring that a 13 ounce reinforced web vinyl banner shall have the size of 4 feet times 4 feet wide times 10-30 feet long. That defines an elongate tube having a square cross-section. The banner is to be mounted on something. The reference does not say what the cable snaps at the top and bottom with 2 feet on center are attached to. Claim 11 describes the assemblage shown in general at 346 in Fig. 10 and calls for the provision of a horizontally disposed lower signage support interconnecting adjacent poles at about the bay access elevation. There is nothing in Duarte or for that matter in any of the references to suggest a bay access elevation. Additionally, there is no signage support described in Duarte. Further, in applying a rejection the Examiner has stated that it would have been obvious to "modify": Pool's modified structure to show a horizontally disposed lower signage support interconnecting as said pole with said next adjacent pole at about the bay access elevation, coupling the horizontally disposed lower signage support with the signage adjacent the lower border as taught by Duarte because a lower signage interconnecting the poles at about the bay access elevation and adjacent the lower border would enable a customer to distinguish and identify the merchandise beneath the bay access elevation. Again, the Examiner is apparently relying on some personal expertise in asserting this rejection. Accordingly, the applicants again call upon the Examiner to supply documentary evidence supporting his position or a personal affidavit supporting his position under the provisions of 37 CFR § 1.104(d) (2). See additionally the supplemental declaration of Dascenzo.

The Examiner applied the same references with respect to claim 12, dependent upon claim 11 and calling out that the step of coupling the horizontally disposed signage support is carried out with breakaway couplers configured to break in response to assertion of a predetermined wind load upon the signage. In applying the Duarte regulation the Examiner stated that it would have been obvious to modify Pool's modified structure: "...to show breakaway couplers coupling the signage support as taught by Duarte because breakaway couplers coupling the signage support would allow the support to break away preventing damage to the signage and people who accidentally bumps against the structure once a maximum amount of allowable force is exceeded." There is no suggestion whatsoever in the Duarte reference that

breakaway couplers responsive to wind load are to be employed in fact, "wind pockets" are called for. Thus, the reference teaches away from breakaway couplers. See Dascenzo's supplemental declaration.

In rejecting claim 13, the Examiner has stated that it would have been obvious: "... to modify Pool's modified structure to show a tensioned cable assembly supporting the signage because a tensioned cable assembly would provide for easy supporting and tensioning of the support for supporting the signage." None of the references disclose or suggest a tensioned cable assembly for any purpose. It is apparent that the Examiner has again rejected a claim based upon his apparent personal knowledge. Accordingly, the applicants call upon the Examiner to supply documentary evidence supporting this position or a personal affidavit in full support of this position under 37 CFR § 1.104(d) (2). It is noted that this request was made in the applicant's first response and the Examiner has ignored it.

Claims 14-15, look to the tall vertically oriented banners 106 and 106' shown in Fig. 1 of the drawings. In rejecting these claims the Examiner has stated that it would have been obvious "...to modify Pool's modified structure to show two said anchors adjacent the boundary mutually spaced apart a banner width distance, two second poles each having an insertion end configured for slidable insertion to the extent of the support distance within a said sleeve of one of the two anchors, the second poles being extensible when inserted within a said sleeve, the second pole height from the surface to a second pole top greater than the overhead signage sight height, an upper banner support assembly extensible between the two second poles, removably horizontally coupling the upper banner support assembly between the two poles adjacent the second pole tops, suspending a remotely viewable banner from the upper banner support, two said anchors adjacent the boundary locates the two anchors adjacent the entrance region because having two poles taller than the signage support at the entrance supported in sleeve with upper banner coupled to the two poles would allow a potential customer to view the installation at a distance and be attracted and enters the installation, and thus resulting in better sales." The only entrance shown in the references is the space between a wall and a curb. The references show no anchors as claimed; no poles having different heights; no upper banner support assembly extending between the poles of second height; no removable horizontal coupling of the upper banner support assembly; and no banner suspended from that upper banner support. See the supplemental declaration of Kern. Again, the Examiner is rejecting claims based upon his apparent personal knowledge and expertise. Accordingly, the applicants again call upon the Examiner to supply documentary evidence supporting his position or a personal affidavit fully supporting that position under 37 CFR § 1.104(d) (2). Applicants requested such action in the last response which the Examiner has ignored.

In rejecting claim 16, the Examiner has stated that it would have been obvious "...to modify Pool's modified structure to show the step of providing a plurality of anchors having a base plate at an elevation with respect to the paved surface to effect a linear alignment of the first pole tops because it would enable the tops of the poles to have the same height which would result in aesthetic appearance for the retail store." There are no such base plates suggested or shown in any of the references taken singly or in combination. Again, the Examiner is rejecting claims based upon his apparent personal knowledge or expertise. Accordingly, the applicants call upon the Examiner to supply documentary evidence supporting his position or a personal affidavit fully supporting that position under the provisions of 37 CFR § 1.104(d) (2). The Examiner ignored this same request in the last response of the applicants.

The Examiner again has supplied at this position in the Action no commentary in rejecting claim 17. That claim looks to the establishment of a grid of anchors as described in connection with Fig. 9. There is no such grid shown or suggested in the references whether taken singly or in combination.

It is noted that claims 18-26 have been rejected under §103 of the Patent Statute as being unpatentable over Pool (supra) in view of Feleppa (supra) and Thornton (supra) and Reilley, et al., (supra), Flea Market (supra) and Howes Jr.(supra). As in the earlier Office Action, the Examiner has ignored the recitations of claim 18 in applying this rejection. Notwithstanding this aspect of the rejection, the Examiner interprets the references out of context. As noted above, Pool describes a drive-through grocery having a so called retail boundary which includes a fence and a sequence of showcases. The showcases are observed from car window level which the Examiner identifies as the shoppers line of sight. The Examiner states that there is signage described in Pool. There is not. The claim calls for an overhead signage sight height which is defined and is quite different than the billboard sight from an automobile window. The objective of the patent is to display food and then drive forward to a toll booth and order it. The only aspects of claim 18 which the Examiner has identified corresponds with the opening paragraph and a recitation of a plurality of merchandise information carrying signs. There is no description whatsoever in Pool of a merchandise describing sign.

Of the nine paragraphs in claim 18 the Examiner has equated Pool with a mere two of those paragraphs. Having described how Pool applies in the rejection in six lines, the Examiner again describes how Pool does not apply in seventeen lines. Looking to the paragraphs of claim 18 it may be observed that Pool does not describe a plurality of anchors; a plurality of first poles of first heights; an overhead top connector assembly; a plurality of upper signage support assemblies; a plurality of merchandise information carrying signs suspended from select said upper signage support assemblies; does not describe a retainer connection assembly; does not

describe a plurality of lower signage retainer assemblies; and does not describe a plurality of lower couplers. That list encompasses every substantive paragraph in claim 18.

The Examiner then describes Feleppa as showing a marketplace having a plurality of poles forming a retail area, the poles extending from the ground to a top. Feleppa doesn't describe that. Feleppa describes a frame configuration utilized as a shelter. While Fig. 88 shows a fresh produce sign on top of a stick figure there is no description that the sign indicates what is below it. The term retail does not appear in the patent. Whatever shelter was intended is not disclosed and the shelter shown could be, for example, a storage tent with a general area sign sticking above it. The Examiner cannot read into a reference what is not there. Additionally, Feleppa is not properly combined with Pool. Why would Pool want to erect a tent upon his driveway? Why would Pool want to erect a tent on his parking lot which has no merchandising? How can one construe the frame structure of a tent as suggesting the erection of a plurality of poles defining a merchandising region and carrying signage between them?

The Examiner then identifies Reilley, et al., as showing a retail area having bays with merchandise and signage. Reilley, et al., shows a conventional shelf with shelf mounted tear off strips which carry a UPC symbol. As noted above, claim 18 requires that the signage support assembly be removably coupled with overhead top connector assemblies. That feature cannot be construed from Reilley, et al., and the instant invention cannot be manipulated into a combination of Reilley, et al., with Pool. Pool might use the product code carrying tear off sheets from Reilley, et al., to carry to its cash booth. However, more than likely this would require the customer to get out of his or her car to access the sheets. Notwithstanding such questionable improvement to Pool, the combination bears no applicability whatsoever to the instant invention.

Thornton is cited to show a plurality of poles extending into sleeves in the ground to support the poles, the poles being connected at the top with signage. Thornton shows a large sign which slides on two poles which are mounted in the ground. The poles aren't spaced a bay distance and there is no sleeve engagement surface. It should further be noted that two poles are not a "plurality" of poles.

Next, the Examiner states that Howes, Jr., shows a plurality of covers (14) covering a plurality of sleeves when the sleeve is not engaged with the poles to cover the holes against debris and people tripping, the insertion ends of the pole being in freely abutable contact with the sleeve engagement surface. There are no covers recited in claims 18-26. There is no sleeve engagement surface in Howes, Jr. That surface is describe in Fig. 11 at 416. Additionally, in none of the references are anchors mutually spaced apart a bay distance. Flea Market was cited as showing a signage "Cigars" being about 10-12 feet to advertise a product below. As noted above, the Examiner withheld the entire website. The only retail merchandising

shown at that website is involved with a permanent building. The singular photograph relied upon by the Examiner at page 2 of 10 of the website is misleading. That type facility also is described at page 10 of 10 and it is clearly a permanent structure. The home page further describes that the Flea Market property encompasses about 1000 small buildings and 1000 open air stalls. The home page further describes that buildings and open spaces can be reserved by the month. Indeed the buildings are permanent. The reference flies in the face of the precepts of the present invention. See the Baughman supplemental declaration.

Next the Examiner states that it would have been obvious to "...modify Pool to show a plurality of anchors fixed beneath the surface in a geometric pattern within the retail region boundary, at least two of the anchors being mutually spaced apart a bay distance, each of the anchor having a vertically disposed sleeve having a support distance located below the surface and extending to an engagement surface, a plurality of first poles of first height, each pole having a top and an insertion end slidably inserted in the sleeve, the insertion end being in freely abutable contact with the sleeve engagement surface, the poles defining a merchandising region exhibiting an entrance region, a shopper aisle and an exit region,...". None of the references, taken singly or in combination describe a plurality of anchors in a geometric pattern within a retail region boundary. None of the references, taken singly or in combination describe that two of the anchors being mutually spaced apart a bay distance. None of the references describe a sleeve assembly combined with an engagement surface as at 416. None of the references describe that the first poles are inserted within the anchors in mutually spaced adjacency to define a merchandising region exhibiting an entrance region, a shopper aisle and an exit region. See the Kern supplementary declaration. Should the Examiner be relying on some personal expertise, then the applicants request that the Examiner supply evidentiary documentation supporting his position or supply the applicants a personal affidavit fully supporting his position drawn under the provisions of 37 CFR § 1.104(d) (2).

Next the Examiner has stated that it would have been obvious to "modify" Pool to show "...said pole establishing an overhead signage sign height from of the surface to the top an overhead top connector assembly fixed to each of the first pole adjacent the top, a plurality of signage support assemblies removably coupled to the overhead top connector assemblies to define a boundary of the merchandising region including the entrance region,...". The references do not suggest the utilization of poles to establish an overhead signage sight height which, in itself is defined within the claims. The overhead top connector assemblies are described, for example, at 342 and 344 in Fig. 10. There are no such connector assemblies described or suggested in any of the references. The references do not describe or suggest a plurality of signage support assemblies removably coupled to the overhead top connector

assemblies to define a boundary of the merchandising region including the entrance region. Apparently, the Examiner again is relying on some personal expertise. Accordingly, the applicants request that the Examiner supply evidentiary documentation supporting his statement or provide a personal affidavit fully supporting such statement pursuant to 37 CFR § 1.104(d) (2).

Next, the Examiner states that it would have been obvious to "modify" Pool to show "...a plurality of signs suspended from the upper signage support assemblies and extending downwardly therefrom to a lower border to define a shopper line of sight region,...".

The Examiner omits that the signs are merchandise information carrying signs. None of the references taken singly or in combination show or suggest such a plurality of information carrying signs which are suspended from select upper signage support assemblies and which extend downwardly to a lower border. Recall that the upper signage support assemblies are removably coupled with the overhead top connector assemblies. That combination is nowhere suggested in the references. Apparently, the Examiner again relies upon some personal expertise in formulating this statement. Accordingly, applicants request that the Examiner supply evidentiary documents fully supporting his statement or supply a personal affidavit carrying information sufficient to fully support his statement under the provisions of 37 CFR § 1.104(d) (2).

Next, the Examiner states it would have been obvious to "modify" Pool to show "...a retainer connection assembly fixed to each of the first pole at a location defining a bay access elevation above the surface when the poles are inserted within the sleeves,...". These retainer connection assemblies are described in connection with Fig. 10, for example, at 358 and 366. None of the references, taken singly or in combination teach or suggest such a retainer connection assembly; or such an assembly being fixed to first poles at a location defining a bay access elevation. None of the references teach the presence of a bay access elevation and that the bay access elevation is developed when the poles are inserted in the sleeves. Apparently, the Examiner again relies on some personal expertise in making this statement. Accordingly, applicants request that the Examiner supply documentary evidence fully supporting his statement or supply a personal affidavit fully supporting such statement under the provisions of 37 CFR § 1.104(d) (2).

Next, the Examiner states that it would have been obvious to "modify" Pool to show "...a plurality of lower signage retainer assemblies removably coupled between retainer connector assemblies of adjacent said first poles in parallel relationship with the upper signage support assemblies,...". Such lower retainer assemblies are shown, for example, at 346 in Fig. 10. None of the references, taken singly or in combination show a plurality of lower signage retainer assemblies which are removably coupled between retainer connector assemblies as claimed.



None of the references show the parallel relationship of such an assembly with an upper signage support assembly which also is not suggested in the reference. Apparently, the Examiner again is relying on some personal expertise in make this statement. Accordingly, applicants request that the Examiner supply documentary evidence fully supporting his statement or a personal affidavit fully supporting such statement under the provision 37 CFR § 1.104(d) (2).

Next, the Examiner states that it would have been obvious to "modify" Pool to show "...a plurality of lower couplers removably connected between the lower signage retainer assemblies and the lower border of the signs because having a plurality of poles extending into anchors/sleeves in the ground to define a retail area with the insertion and being in freely abutable contact with the sleeve engagement surface would provide for easy and quick assembly of the retail boundary as taught by Thornton and Fillipa and Howes, Jr.,...". These lower couplers are shown, for example, at 368 and 370 in Fig. 10. Such couplers or their use as claimed are not disclosed or suggested by any of the references taken singly or combined. The addition of Howes Jr. adds nothing to this combination of references. Again, the Examiner appears to rely upon some personal expertise in making this statement. Accordingly, applicants request that the Examiner supply evidentiary documentation fully supporting his statement or supply a personal affidavit fully supporting this statement in accordance with 37 CFR § 1.104(d) (2).

Next, the Examiner states that it would have been obvious to "modify" Pool to show "...having removable overhead signage attached to connectors at the top of the poles would allow for fastening of the signage to poles and advertising of merchandise as taught by Duarte "street banner pole",...". As discussed above, Duarte is a home page for the City of Duarte California. The document is concerned with obtaining permits from the city, the second page of the document describes an elongate square tube banner. Street banner poles are mentioned but there is no description of them whatsoever. The regulations appear to suggest that at least certain of the banners are hung across public rights of way. The reference is completely deficient in terms of suggesting the system of the claims.

Next, the Examiner states that it would have been obvious to "modify" Pool to show "...having a plurality of signs suspended from the upper signage support assemblies and extending downwardly therefrom to a lower border to define a shopper line of sight region would allow for the easy advertisement and showing of the available products as taught by Thornton and "Flea Market Slide Show",...". Thornton doesn't show a plurality of merchandise information carrying signs suspended from a plurality of upper signage support assemblies removably coupled with overhead top connector assemblies. Flea Market only shows permanent building installations which have no bearing whatsoever on the invention at hand.

Hanging a sign in a building does not meet the requisite recitations of claims 18-26. See the Baughman supplemental declaration.

Next, the Examiner states that it would have been obvious to "modify" Pool to show "...having a retainer connection assembly fixed to each of the first pole at a location defining a bay access elevation above the surface when the poles are inserted within the sleeves would ensure the poles are securely fastened and not getting loose,...". The Examiner's statement is incorrect. However, none of the references taken singly or in combination show or suggest a retainer connection assembly fixed to the poles at a location defining a bay access elevation. None of the references show or suggest a bay access elevation above a paved surface when the poles are inserted within the sleeves. Apparently, the Examiner again is relying on some personal expertise in making this statement. Accordingly, applicants request that the Examiner supply evidentiary documentation fully supporting his statement or a personal affidavit fully supporting his statement drawn under the provisions of 37 CFR § 1.104(d) (2).

Next, the Examiner states that it would have been obvious to "modify" Pool to show "...having a plurality of lower signage retainer assemblies removably coupled between retainer connector assemblies of adjacent said first poles in parallel relationship with the upper signage support assemblies would allow for the easy advertisement and showing of the available products as taught by Thornton and Duarte "page 2",...". Thornton shows a slidable sign on two poles and has nothing to do with the "showing of the available products", terminology not present in the claim. Duarte has been discussed above and provides no description whatsoever of lower signage retainer assemblies removably coupled between retainer connector assemblies of adjacent first poles in parallel relationship with the upper signage support assemblies. Apparently, the Examiner is relying on some personal expertise in making this statement of rejection. Accordingly, applicants request that the Examiner supply evidentiary documentation fully supporting his statement or a personal affidavit in full support of his statement under the provisions of 37 CFR § 1.104(d) (2).

Next, the Examiner states that it would have been obvious to "modify" Pool to show "...having a plurality of lower couplers removably connected between the lower signage retainer assemblies and the lower border of the signs would enable the support of signage and easy removable of the signage when not required as taught by Duarte "cable snaps of banner". Duarte simply vaguely describes the use of cable snaps spaced two feet on center in connection with banners having a square tube shape. Duarte doesn't describe or suggest a plurality of anchors spaced apart a bay distance; doesn't describe a plurality of first poles insertable within the anchor to a sleeve engagement surface; and defining a merchandising region with an entrance region a shopper aisle and an exit region; does not describe an

overhead top connector assembly; does not describe a plurality of upper signage support assemblies removably coupled with the overhead top connector assemblies to define a boundary of a merchandising region including the entrance region; does not describe a plurality of information carrying signs suspended to define a shopper line of sight region; does not describe a retainer connection assembly are fixed to each first pole at a location defining a bay access elevation; does not describe a plurality of lower signage retainer assemblies removably coupled between retainer connector assemblies.

Next, the Examiner rejects claim 19 stating that Pool as "modified" shows all the claimed limitations except for the support assembly having an elongate cable, a cable tensioner coupled to the cable, two spaced apart spring actuated couplers manually connectable with the top connector assemblies. Pool and the secondary references do not show all the claimed limitations whatsoever. Pool may be construed in a contorted fashion to resemble the introductory paragraph of claim 18. In applying the rejection, the Examiner states that it would have been obvious to "modify" Pool's modified structure to show "...the support assembly having an elongate cable, a cable tensioner coupled to the cable, two spaced apart spring actuated couplers manually connectable with the top connector assemblies because having a cable and cable tensioner with two spaced apart spring actuated couplers manually connected to the connector assemblies would ensure the proper and straight support of the signage due to the adjustability of the length of the cable." None of the references, taken singly or in combination show or suggest the subject the matter of claim 19. There are no cables in any of the references which are utilized in sign support. Again, the Examiner appears to make the statement based upon some personal expertise. Accordingly, applicants request that the Examiner supply evidentiary documentation fully supporting his statement or a personal affidavit fully supporting his statement drawn under the provisions of 37 CFR § 1.104(d) (2). This request was made in the last response with respect to an identically worded rejection. The Examiner ignored the request.

In rejecting claim 20, the Examiner states that Pool as "modified" shows all the claimed limitations except for the support assembly having an elongate cable, a cable tensioner coupled with the cable, two spaced apart spring actuated couplers manually connectable with the retainer connector assemblies. In reality as stated above, Pool as "modified" does not show all the claimed limitations. Then the Examiner states that "...because having a cable and cable tensioner with two spaced apart spring actuated couplers manually connected to the retainer connector assemblies would ensure the proper and straight support of the signage due to the adjustability of the length of the cable". Again, none of the references, taken singly or in

combination show a lower signage retainer assembly or its implementation with an elongate cable and the remaining recited components. Apparently, the Examiner again is relying on some personal expertise in making this statement. Accordingly, applicants request that the Examiner submit evidentiary documentation in full support of the statement or a personal affidavit fully supporting his statement drawn under the provisions of 37 CFR § 1.104(d) (2). This request was made in the last response of the applicant in connection with an identically worded rejection. The Examiner appears to have chosen to ignore the request.

In rejecting claim 21, the Examiner states that Pool as "modified" shows all the claimed limitations except for what in effect is the recitation of claim 21. The Examiner further points to Duarte, page two as disclosing cable snaps to support the length of banner at top and bottom. As set forth in the supplemental Dascenzo declaration, Duarte shows nothing of structure; mentions the installation of cable snaps and describes wind pockets to accommodate wind loads as opposed to the breakaway approach of the claim. In effect, Duarte teaches away from claim 21. Then the Examiner states that "...because breakaway couplers coupling the signage support would allow the support to breakaway preventing damage to the signage once a maximum amount of allowable force is exceeded as taught by Duarte." Duarte teaches nothing of the sort. See the supplemental Dascenzo declaration. Apparently, the Examiner again is relying on some personal expertise in making this statement. Accordingly, applicants request that the Examiner supply evidentiary documentation in full support of the statement or a personal affidavit fully supporting his statement drawn under the provisions of 37 CFR § 1.104(d) (2).

In rejecting claims 22 and 26, the Examiner states that Pool as "modified" shows all the claim limitations except for the subject matter of claims 22 and 26. Pool as "modified" does not show all the claimed limitations for reasons given above. In making this rejection, the Examiner states that it would have been obvious to "modify" Pool's modified structure to show "...each sleeve engagement surface being at an elevation with respect to the paved surface selected to effect a linear alignment of the first pole tops or the sleeve engagement surface of the two anchors being at an elevation with respect to the paved surface selected to effect a common elevation of the second pole second tops because it would enable the tops of the first poles to have the same height and the tops of the second poles having the same height which would result in aesthetic appearance for the retail store". None of the references, taken singly or in combination show anchors as described in the claim. Apparently, the Examiner again is relying on some personal expertise in making this statement. Accordingly, the applicants request that the Examiner supply evidentiary documentation in full support of his statement or a personal affidavit in full support of his statement under the provisions of 37 CFR § 1.104(d) (2).

In rejecting claim 23, the Examiner has stated that Pool as "modified" shows all the claimed limitations with the exception of the subject matter of claim 23. Pool as "modified" does not show all the claim limitations whatsoever for reasons given above. The subject of the claim is the entrance banner assemblage shown in Fig. 1 at 106 AND 106'. There is nothing in any of the references taken singly or in combination that would suggest that entrance treatment. In applying this rejection the Examiner has stated that it would have been obvious to "modify" Pool's modified structure to show what is then a paraphrasing of the entirety of claim 23 with a further statement that the subject matter of the claim "...would allow for the hanging and easy removable of the signage to the poles." Again, it appears that the Examiner is relying on some personal expertise to assert this statement of rejection. Accordingly, applicants request that the Examiner supply evidentiary documentation fully supporting his statement or a personal affidavit fully supporting that statement drawn under the provisions of 37 CFR § 1.104(d) (2). This request was made by the applicants in the last response in conjunction with an identically worded rejection. Apparently, the Examiner has chosen to ignore the request.

The Examiner has rejected claims 24-25 stating that Pool as "modified" shows all the claimed limitations except for what are the recitations of claims 24 and 25 themselves. For reasons given above, Pool as "modified" shows essentially none of the limitations of the claims in this application. None of the references, taken singly or in combination show a banner as taught in claim 23 with its appropriate connector assemblies, the higher poles, a lower banner assembly with components recited in claim 24, or break away lower couplers as recited in claim 25. In asserting this rejection, the Examiner has stated that it would have been obvious to "modify" Pool's "modified" structure to show the system representing the subject matter of claims 24 and 25. Among the reasons given for this, the Examiner states "...because having a lower banner connector assembly fixed to each second poles adjacent the lower banner edge would allow for the support of the banner at the lower banner edge thus resulting in the banner not moving in undesirable locations and directions, having a banner retainer assembly removably coupled between the second poles at the lower banner retainer assembly would allow for the easy hanging and removable of the banner at the poles, and having the two lower couplers removably connected and being breakaway coupler would enable the easy and quick assembly/disassembly of the banners at the poles and the breakaway coupler would ensure the banner not destroyed when the wind force is too high as the breakaway coupler would first break which would result in the banner not subjected to the previous major wind force." It appears that the Examiner is rejecting claims based upon the applicants' own specification. None of the references, taken singly or in combination show or suggest the subject matter of claims 23, 24 and 25, claim 24 and 25 being dependent upon claim 23. Again, the Examiner

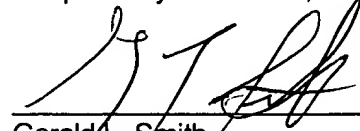
Appln. No. 09/995,417  
Response dated January 15, 2004  
Reply to Office Action of 4/24/03

appears to be making this statement based upon his own personal expertise. Accordingly, applicants request that the Examiner supply evidentiary documentation in full support of his statement or a personal affidavit in full support of his statement drawn under the provisions of 37 CFR § 1.104(d) (2).

In support of the commentary of the applicants as given above, supplemental declarations drawn under the provisions of 37 CFR § 1.132 are submitted herewith by Baughman, Kern, Dascenzo and Wood which have applicability to substantially all of the above discussed rejections.

Date: January 15, 2004

Respectfully submitted,

  
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Enclosures:  
(4) supplemental declarations  
with exhibits

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited on January 15, 2004 with the United States Postal Service as first class mail in an envelope addressed to:

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\_\_\_\_\_  
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